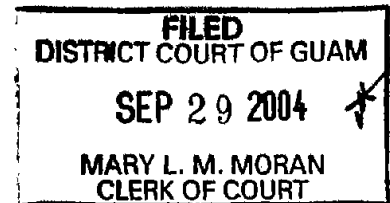


JOAQUIN C. ARRIOLA  
ANITA P. ARRIOLA  
JACQUELINE T. TERLAJE  
ARRIOLA, COWAN & ARRIOLA  
259 Martyr Street, Suite 201  
Hagåtña, Guam 96910  
Telephone: (671) 477-9730/33  
Facsimile: (671) 477-9734



Counsel for Plaintiffs Alan Sadhwani, et al.

IN THE UNITED STATES  
DISTRICT COURT OF GUAM

ALAN SADHWANI, LAJU  
SADHWANI, and K. SADHWANI'S  
INC., a Guam corporation,  
Plaintiffs,

vs.

HONGKONG AND SHANGHAI  
BANKING CORPORATION, LTD., a  
Foreign corporation, JOHN DOE I  
through JOHN DOE X,  
Defendants.

CIVIL CASE NO. 03-00036

MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
PLAINTIFFS' EX PARTE MOTION  
FOR EXTENSION OF TIME TO  
SERVE EXPERT WITNESS  
DISCLOSURES

INTRODUCTION

Plaintiffs Alan Sadhwani, et al., by and through undersigned counsel, hereby files this *ex parte* motion for extension of time to serve expert witness disclosures. The trial in this matter is currently scheduled for January 25, 2005. Under Federal Rules of Civil Procedure 26(a)(2)(C), expert witness disclosures shall be made at least ninety (90) days before the trial date, which in this case would be October 27, 2004. However, the discovery deadline is November 17, 2004 and it is anticipated that plaintiffs will continue to take depositions between October 27 and November 17, 2004, as well as obtain further production of documents from defendant. Plaintiffs request that the

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Court extend the deadline for making expert witness disclosures to November 30, 2004, in order that the expert witnesses will have sufficient time to review all depositions taken in the case and to include them in their report. The extension of time will benefit both parties and will still allow adequate time for the parties to depose the expert witnesses prior to trial.

### ARGUMENT

#### **I. THE DEADLINE FOR EXPERT WITNESS DISCLOSURES SHOULD BE EXTENDED TO ALLOW FOR FULL AND COMPLETE EXPERT WITNESS REPORTS.**

F.R.C.P. 26(a)(2)(B) provides for the disclosure of expert testimony, including the identity of expert witnesses, their written reports, the data or other information considered by the witness in forming the opinions, any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years. *"In the absence of other directions from the court or stipulation by the parties, the disclosures shall be made at least 90 days before the trial date . . . "* F.R.C.P. 26(a)(2)(C) (emphasis added). HSBC has refused to stipulate to an extension of time for making the expert witness disclosures, *see* A. Arriola Decl., Exh. 1, accordingly plaintiffs seek an extension of time from the Court.

Good cause exists for an extension of time. The trial date in this case is scheduled for January 25, 2005. A. Arriola Decl. Under F.R.C.P. 26(a)(2)(C), the expert disclosures must be made by October 27, 2004. Id. Based upon the Stipulation and Order Modifying the Scheduling Order dated August 18, 2004, the discovery deadline is November 17, 2004. Id. Plaintiffs

anticipate that they will be taking depositions between October 27, 2004 and November 17, 2004 and continuing to obtain production of documents in order to complete discovery in this matter. Id.

It is axiomatic that the expert witnesses should have access to all of the depositions and documents produced in this case prior to providing their expert witness reports. Id. This will result in more accurate and complete expert witness reports. Id.

**II. HSBC WILL SUFFER NO PREJUDICE AS A RESULT OF ANY EXTENSION OF TIME FOR EXPERT WITNESS DISCLOSURES.**

Both plaintiffs and defendant will benefit from an extension of time for the expert witness disclosures. A. Arriola Decl. If the disclosures are made on October 27, 2004, there is a very high likelihood that the expert witness reports, the data or information considered by the experts, and the statement of opinions will need to be supplemented or revised after the discovery deadline in order to accommodate any depositions or documents produced after October 27, 2004. Id. This would result in additional costs to the parties due to the further work required to be done by the experts. Id. It would also result in incomplete reports that will not be useful to any of the parties. Id. The extension of time to November 30, 2004 will give the expert witnesses sufficient time to complete their reports and will also give the parties sufficient time to take the depositions of the expert witnesses prior to trial. Id.

Plaintiffs requested that defendant stipulate to an extension of time for the expert witness disclosures, but defendant's counsel did not even respond. A. Arriola Decl., Exh. 1. Defendant also did not assert any prejudice that it may incur as a result of any extension of time. Id.

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**CONCLUSION**

For all of the foregoing reasons, plaintiffs respectfully request that the Court grant plaintiffs' ex parte motion for an extension of time to November 30, 2004 to make the expert witness disclosures required under F.R.C.P. 26(a)(2).

DATED this 29th day of September, 2004.

**ARRIOLA, COWAN & ARRIOLA**  
Attorneys for Plaintiffs Alan Sadhwani, et al.

By:   
**ANITA P. ARRIOLA**

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910

**CERTIFICATE OF SERVICE**

I, ANITA P. ARRIOLA, hereby certify that on September 29, 2004, I caused to be served via hand delivery, a **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' EX PARTE MOTION FOR EXTENSION OF TIME TO SERVE EXPERT WITNESS DISCLOSURES** to:

**Jacques G. Bronze, Esq.  
Bronze & Tang, P.C.  
2nd Floor, BankPacific Building  
825 S. Marine Drive  
Tamuning, Guam 96913**

Dated this 29th day of September, 2004.

  
**ANITA P. ARRIOLA**

ARRIOLA, COWAN & ARRIOLA, HAGATNA, GUAM 96910